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New Zealand Security Intelligence Service
Te Pā Whakamarumaru

New Zealand
Security Intelligence Service
PO Box 900, Wellington

P +64 4 472 6170
F +64 4 472 8209

6 September 2019

Shane Davies
wazupdog@xtra.co.nz

Dear Mr Davies

Privacy Act Request

Thank you for your correspondence of 26 August 2019 asking for all personal information the New Zealand Security Intelligence Service (NZSIS) may hold about you for the period 30 April 1971 until 14 September 2019. I have treated this as a request under the Privacy Act 1993. In order to provide you with a timely reply, we have searched our records up until 29 August rather than wait until 14 September.

My response to your request for NZSIS-held information is that I can neither confirm nor deny the existence or non-existence of any information.

This reply is given within the terms of section 32 of the Privacy Act[1] because disclosing the existence or non-existence of the information is likely to prejudice the interest protected by section 27(1)(a) of that Act (the security or defence of New Zealand).

Please find attached a one page fact sheet, which provides you with information about how we apply section 32 of the Privacy Act when we are responding to privacy requests, and why we sometimes use the response "neither confirm nor deny".

The fact sheet refers to a case note published by the Office of the Privacy Commissioner (www.privacy.org.nz), and that website provides additional information about the use of section 32 (search for "neither confirm nor deny").

If you wish to discuss this decision, please feel free to contact oia.privacy@nzsis.govt.nz.

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[1] **32 Information concerning existence of certain information**
Where a request made pursuant to principle 6 relates to information to which section 27 or section 28 applies, or would, if it existed, apply, the agency dealing with the request may, if it is satisfied that the interest protected by section 27 or section 28 would be likely to be prejudiced by the disclosure of the existence or non-existence of such information, give notice in writing to the applicant that it neither confirms nor denies the existence or non-existence of that information.

Should you be unhappy with this outcome you have the right, under section 67 of the Privacy Act, to make a complaint to the Privacy Commissioner and request an investigation of my decision.

Yours sincerely

Rebecca Kitteridge

Rebecca Kitteridge
Director-General of Security

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Service
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Fact Sheet – NZSIS response to information requests

This fact sheet provides information to the public about how the New Zealand Security Intelligence Service (NZSIS) applies section 32 of the Privacy Act 1993 when responding to information privacy requests, and explains why we sometimes use the response "neither confirm nor deny".

The objectives of NZSIS are to contribute to the national security of New Zealand; the international relations and well-being of New Zealand; and the economic well-being of New Zealand. Everything that we do needs to be in accordance with New Zealand law and New Zealand's human rights obligations, and is subject to a very stringent warranting and oversight regime.

NZSIS aims to be as open as possible about our work. Due to the sensitive nature of what we do, revealing details about what we do or do not know can have security implications. NZSIS has been the target of coordinated information requests from people who want to know if they are under investigation, and who share responses with each other to draw conclusions about what NZSIS is or is not aware of.

Sometimes NZSIS can answer information privacy requests without compromising security. That includes:

- When the person has had a declared interaction with NZSIS (such as if a person has been through a vetting process or contacted NZSIS directly); and
- When the information is no longer sensitive (such as some historical files).

In other circumstances confirmation might compromise security:

- In some cases confirming that we hold information on a person can mean NZSIS is investigating an activity of security concern and disclosing the fact can comprise our investigation.
- If someone carrying out activities of security concern receives a 'no information held' response, they will know they haven't been detected and may continue to carry out or escalate their activities.

Whether NZSIS can answer an information privacy request will depend on all the relevant circumstances. NZSIS will make a decision on a case-by-case basis about what, if any, information is provided in response to a request. NZSIS must protect its investigations, sensitive sources or methods, partners, and NZSIS staff identity. If we don't, it would potentially have an impact on people's safety, as well as limit our ability to achieve our objectives.

People who receive a "neither confirm nor deny" response should not draw conclusions that they are under investigation or pose a security risk, or that we hold information about them. We understand that receiving a "neither confirm nor deny" response may cause concerns and be unsettling (see Privacy Commissioner case note 284416 about such responses). NZSIS is subject to a number of safeguards and oversights. If you receive a "neither confirm nor deny" response from us, you may wish to seek a review of that decision by contacting either:

- In the first instance, Privacy Commissioner (www.privacy.org.nz); or
- If issues remain, the Inspector-General of Intelligence and Security (www.igis.govt.nz).